

**IN THE UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION**

BERKLEY NATIONAL INSURANCE  
COMPANY,

Plaintiff,

v.

PHUNWARE, INC.,

Defendant.

Case No. 1:20-cv-00916-LY

**NOTICE OF DISMISSAL WITHOUT PREJUDICE**

Pursuant to Federal Rule of Civil Procedure 41, Plaintiff Berkley National Insurance Company (“Berkley National”) files this Notice of Dismissal Without Prejudice, and in support thereof, respectfully shows the Court as follows:

1. On September 4, 2020, Berkley National initiated this civil action by filing its Complaint for Declaratory Judgment (the “Complaint”).

2. The Complaint names Phunware, Inc. (“Phunware”) as the sole Defendant and seeks a declaratory judgment concerning potential insurance coverage for an underlying lawsuit brought against Phunware.

3. Berkley National and Phunware have now resolved the issues currently in dispute between them, which makes litigation of this action no longer necessary at this time.

4. Federal Rule of Civil Procedure 41(a)(1)(A)(i) provides that the plaintiff may dismiss an action without a court order by filing a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment. FED. R. CIV. P. 41(a)(1)(A)(i).

5. As of the date of filing of this Notice, Phunware has not filed an answer or a motion for summary judgment.

6. Accordingly, Berkley National hereby notifies the Court and all other parties that it no longer desires to pursue this action and that it is dismissing **without prejudice** all claims asserted by it in the Complaint.

Respectfully submitted,

By: /s/ J. Price Collins

J. Price Collins

State Bar No. 04610700

Email: Price.Collins@WilsonElser.com

Ashley F. Gilmore

State Bar No. 50511704

Email: Ashley.Gilmore@WilsonElser.com

**WILSON ELSE MOSKOWITZ**

**EDELMAN & DICKER, LLP**

901 Main Street, Suite 4800

Dallas, Texas 75202-3758

Telephone: (214) 698-8000

Fax: (214) 698-1101

**ATTORNEY FOR PLAINTIFF BERKLEY**

**NATIONAL INSURANCE COMPANY**